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EXAMINER

HEWITT II, CALVIN L

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Status of Claims

1. Claims 30-38 have been examined.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 30-38 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. The omitted steps are: purchasing the asset and tracking and storing a client usage of content.

Claims 31-38 are also rejected as each depends from claim 30.

4. Claims 30-38 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 30 recites "*controlling usage* of the purchase asset..." and "updating the usage rights.... in accordance to *the controlled usage*" (emphasis added).

The term "controlling usage", however, is not necessarily an action, a step or a

positive recitation. For example, while a door “controls” who can enter a room, it does not actively performing a step of “controlling” (i.e. hanging is not controlling). Therefore, absent a step of tracking how usage of the asset is controlled (e.g. computer prevented a user’s attempt to send the asset to another) or at least how the asset is used (e.g. played four times) Applicant’s “updating” step is unclear to one of ordinary skill (*In re Zletz*, 13 USPQ2d 1320 (Fed. Cir. 1989)).

Claim 30 recites the limitations “the purchased asset” and “the controlled usage” in lines 4 and 16-17, respectively. There is insufficient antecedent basis for these limitations in the claim.

Claims 31-38 are also rejected as each depends from claim 30.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 30-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peinado et al., U.S. Patent No. 6,777,340 in view of Milstead et al., U.S. Patent No. 6,263,313.

As per claims 30-38, Peinado et al. teach a process comprising:

- sending purchase information for an asset (e.g. song, album, video, movie or game) from a client machine to a server (figure 1, items 12p, 14 and 22- "distribution channel"; column 10, lines 3-18; column 14, lines 44-57)
- sending the purchased asset from the server to the client (figure 1, items 12p, 14 and 22- "distribution channel"; column 10, lines 3-18; column 17, lines 5-12)
- sending a license request from the client to the server (column 11, lines 40-45)
- sending a license from the server to the client the license comprising an asset key and usage rights (column 5, lines 25-30; column 10, lines 13-18; column 11, lines 40-58; column 17, lines 5-11)
- controlling usage of the asset with the client based on the license (column 13, lines 15-20; column/line 17/60-18/8)
- updating the usage rights within the client machine (i.e. adding newly acquired rights for newly acquired content in a rights database on a user computer) in accordance to the controlled usage (i.e. wherein the rights are the rights used to control corresponding content) (figure 4, item 38; column 13, lines 15-20; column 15, lines 25-40; column 16, lines 15-28; column/line 17/60-18/8; column 21, lines 53-63)

- saving the purchased asset to an asset store at the client machine
(column/line 13/60-14/3)
- attaching machine characteristics (e.g. unique identifier or fingerprint associated with a client machine) to the license (column/line 47/63-48/29; column 51, lines 28-33; column 52, lines 6-23- "chain", "link")
- securely storing the license at the client machine (figure 4, item 38; column 16, lines 15-28)
- launching a digital content player (column/line 14/15-15/20)
- allowing usage of the content by the content player dependent on the presence of a content (i.e. asset) key and usage rights (column 13, lines 8-33; column/line 14/15-15/20; column/line 15/52-16/14; column 17, lines 5-11; column/line 17/60-18/8)

However, Peinado et al. do not specifically recite a ticket comprising an asset ID that corresponds to the purchased asset. Milstead et al. sending a ticket (comprising an asset ID of a purchased asset) from a server (figures 1A-D; column 14, lines 10-15) to a client machine, sending a request for the purchased asset using the asset ID from the client machine to the server, and in response, the server sending the asset to the client machine (column 20, lines 61-67; column 21, lines 15-30; column 39, lines 6-50; column 70, lines 48-65; column 83, lines 35-45). In addition, Milstead et al. also teach sending a license request

to the server (column 21, lines 22-48) and sending an acknowledgement of the receipt of the license and the asset (column 79, lines 5-23). Therefore, it would have been obvious to one of ordinary skill to combine the teachings of Peinado et al. and Milstead et al. in order to provide an additional security layer (i.e. providing only a license in response to payment and not content) in preventing a user from accessing protected content without providing payment ('313, column/line 20/60-21/55).

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- Payne et al. teach sending a ticket, comprising an asset ID, from a server to a client and the client using the ticket to access the asset using the ID

8. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Calvin Loyd Hewitt II whose telephone number is (571) 272-6709. The Examiner can normally be reached on Monday-Friday from 8:30 AM-5:00 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Andrew Fischer, can be reached at (571) 272-6779.

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/Calvin L Hewitt II/

Primary Examiner

April 24, 2008